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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/782,217

02/19/2004

Kevin Nolish

P63993-USA

5328

27045

7590

05/06/2009

ERICSSON INC.
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EXAMINER

MEHRMANESH, ELMIRA

ART UNIT

PAPER NUMBER

2113

MAIL DATE

DELIVERY MODE

05/06/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/782,217	Applicant(s) NOLISH ET AL.	
	Examiner Elmira Mehrmanesh	Art Unit 2113	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/21/09</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in response to an amendment filed on January 21, 2009 for the application of Nolish et al., for a "Method, apparatus and software for preventing switch failures in the presence of faults" filed February 19, 2004.

Claims 1-8, and 10-19 are pending in the application.

Claim 9 has been cancelled.

Claims 1, 6, and 8 have been amended.

Claims 1-8, and 10-19 are rejected under 35 USC § 102.

Claim Objections

In view of the Applicant's amendments the objection of claim 6 has been withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8, and 10-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Goodrum et al. (U.S. Patent No. 5,822,512).

As per claim 1, Goodrum discloses a switch for transferring data comprising:

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at least one master unit (Fig. 3, elements 101, 123) a plurality of slave units (Fig. 3, elements 103, 121); a bus through which the master unit communicates with the slave units (Fig. 3, element 24); and

a memory (Fig. 1, element 70) in communication with the master unit having a software program that causes the master unit to automatically recover and restart when a slave unit fails (col. 89, lines 20-53), because the slave unit is non-operational, which has caused the master unit to fail (col. 90, lines 1-8) and to avoid further accessing the failed slave unit after restart (col. 90, lines 8-12), and separately when there is a loss of power (col. 89, lines 46-53).

As per claim 2, Goodrum discloses persistent storage that survives across abnormal termination of the master unit (col. 89, lines 20-31).

As per claim 3, Goodrum discloses a mechanism for detecting failures of the slave units and thereupon causes the master unit to abnormally terminate (col. 89, lines 46-53).

As per claim 4, Goodrum discloses the software program causes the master unit to automatically recover when the detecting mechanism causes the master unit to abnormally terminate (col. 89, lines 20-45).

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As per claim 5, Goodrum discloses detecting mechanism includes a hardware watchdog device (col. 88, lines 51-54).

As per claim 6, Goodrum discloses a method for transferring data comprising the steps of:

attempting to access a failed slave unit (col. 90, lines 1-8) of a plurality of slave units (Fig. 3, elements 103, 121); of a switch by a master unit (Fig. 3, elements 101, 123) of the switch with a signal through a bus through which the master unit and the failed slave unit communicate (Fig. 3, element 24); and

automatically recovering and restarting the master unit which has failed (col. 89, lines 20-53) because the failed slave unit failed and caused the master unit to fail (col. 90, lines 1-8) with a software program in the switch that directs the master unit to avoid further accessing the failed slave unit of the plurality of slave units (col. 90, lines 1-12).

As per claim 7, Goodrum discloses the recovering step includes the step of obtaining status information about the slave units from persistent storage (Fig. 39A, elements 408, 422).

As per claim 8, Goodrum discloses a software program that is stored on computer readable medium whose contents causes a processor to perform the steps of:

determining a master unit abnormally terminated when the master unit attempted to access a first slave unit which caused the master unit to fail (col. 89, lines 20-53);

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restarting the abnormally terminated master unit (col. 89, lines 20-31);
identifying the first slave unit of a plurality of slave units of a switch has failed, because the slave unit is non-operational (col. 90, lines 1-12), when the first slave unit is attempted to be accessed by the master unit of the switch (col. 90, lines 1-8); and
preventing a master unit from attempting to access the failed first slave unit after restarting (col. 90, lines 8-12).

As per claim 10, Goodrum discloses changing information in persistent storage associated with the first slave unit from identified as failed to identified as good if the master unit does not terminate abnormally after the master unit attempts to contact the slave unit (Fig. 39B, elements 420, 424, 426).

As per claim 11, Goodrum discloses the step of setting a variable slot chosen from amongst a plurality of slots of the switch not marked as potentially bad (Fig. 39B, element, 426).

As per claim 12, Goodrum discloses the step of determining whether the first slave unit is physically present in a first slot of the plurality of slots (Fig. 39B, element, 426).

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As per claim 13, Goodrum discloses the step of determining the first slot is marked to be skipped (Fig. 39A, element, 422).

As per claim 14, Goodrum discloses the step of marking the variable slot as potentially bad if it is not marked potentially bad (Fig. 39B, element, 440) and (col. 90, lines 49-52).

As per claim 15, Goodrum discloses the step of reporting the variable slot as containing broken hardware and preventing the master unit from attempting to access the variable slot if the variable slot is marked to be skipped (Fig. 39A, element, 422).

As per claim 16, Goodrum discloses the step of attempting to access hardware present in the variable slot if the variable slot is marked potentially bad (Fig. 39A-B).

As per claim 17, Goodrum discloses the step of marking the variable slot as good if the switch did not abnormally terminate when the master unit accessed the first slave unit (Fig. 39B, element, 426).

As per claim 18, Goodrum discloses the step of enabling normal operations on hardware present in the variable slot if the variable slot is marked as good (Fig. 39A, element, 412).

As per claim 19, Goodrum discloses the step of setting the variable slot to a next slot of the plurality of slots (Fig. 39B, element, 420).

Response to Arguments

Applicant's arguments filed January 21, 2009 with respect to claims 1-8, and 10-19 have been fully considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elmira Mehrmanesh whose telephone number is (571) 272-5531. The examiner can normally be reached on 8-4:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert W. Beausoliel can be reached on (571) 272-3645. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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/Robert W. Beausoliel, Jr./
Supervisory Patent Examiner, Art Unit 2113